

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA
CRIMINAL DIVISION

VENUE: SAN FRANCISCO

 UNITED STATES OF AMERICA,

V.

NEWCON INTERNATIONAL LTD.

PJH

FILED

DEC - 4 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT.

INDICTMENT

A true bill.



Foreman

Filed in open court this 4th day of

December 2007.

Clerk



Bail, \$ ~~not set~~ not set

only to process

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA
CRIMINAL DIVISION

VENUE: SAN FRANCISCO

CR 07

0765

PJH
FILED

UNITED STATES OF AMERICA,

V.

DEC - 4 2007

MENDEL BEKER, a.k.a. Mikhail Lvovich, a.k.a. Michael Beker, RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT.

INDICTMENT

A true bill.

Edal Keller

Foreman

Filed in open court this 4th day of

December 2007

Clerk

Sharon M. [Signature]

Bail, \$ no bail was set

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA
CRIMINAL DIVISION
VENUE: SAN FRANCISCO

 UNITED STATES OF AMERICA, 02723

V.

ARIE PRILIK

PJH

FILED

DEC - 4 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT.

INDICTMENT

A true bill.

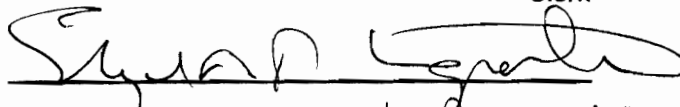


Foreman

Filed in open court this 4th day of

December 2007.

Clerk



Bail, \$

no bail or arrest warrant

PENALTY SHEET

Individual: Arie Prilik

18 U.S.C. §1343 - Fraud by Wire

Maximum Penalties:

1. \$250,000 or two times the loss, whichever is greater
2. A term of imprisonment of 20 years
3. A term of probation of at least one year but not more than five
4. \$100 special assessment per count (\$200)
5. Restitution

18 U.S.C. § 371 - Conspiracy to Commit Wire Fraud

Maximum Penalties:

1. \$250,000 or two times the gain or loss, whichever is greater
2. A term of imprisonment of 5 years
3. A term of probation of at least one year but not more than five
4. \$100 special assessment per count (\$100)
5. Restitution

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION IN U.S. DISTRICT COURT

BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING

OFFENSE CHARGED

18 U.S.C. Section 1343 - Scheme by Wire;
 18 U.S.C. Section 371 - Conspiracy;
 18 U.S.C. Section 1956(a)(2)(A) - Money Laundering

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY:

See attached

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on

☐ U.S. Att'y ☐ Defense

☐ this prosecution relates to a pending case involving this same defendant

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW
DOCKET NO.MAGISTRATE
CASE NO.

Name and Office of Person
 Furnishing Information on
 THIS FORM

Jeane Hamilton
 Antitrust Division
 U.S. Dept. of Justice
 San Francisco Field Office

☐ U.S. Att'y ☒ Other U.S. Agency

Name of Asst. U.S. Att'y
 (if assigned)

Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

FILED
 Mendel Beker a.k.a. Michael Beker a.k.a.
 Michael Lvovich

DISTRICT COURT NUMBER

CR 07 0765 -

DEC - 4 2007
 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT**IS NOT IN CUSTODY**

- Has not been arrested, pending outcome this proceeding.
- 1) ☐ If not detained give date any prior summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction
- 6) ☐ Awaiting trial on other } ☐ Fed'l ☐ State

If answer to (6) is "Yes", show name of institution

Has detainer
 been filed?

☐ Yes
☐ No

If "Yes"
 give date
 filed

DATE OF
 ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED
 TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**

☐ SUMMONS ☐ NO PROCESS* ☐ WARRANT Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address: _____

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments: _____

PENALTY SHEET

Individual: Mendel Beker a.k.a. Michael Beker a.k.a. Michael Lvovich

18 U.S.C. §1343 - Fraud by Wire

Maximum Penalties:

1. \$250,000 or two times the gain or loss, whichever is greater
2. A term of imprisonment of 20 years
3. A term of probation of at least one year but not more than five
4. \$100 special assessment per count (\$200)
5. Restitution

18 U.S.C. § 371 - Conspiracy to Commit Wire Fraud

Maximum Penalties:

1. \$250,000 or two times the gain or loss, whichever is greater
2. A term of imprisonment of 5 years
3. A term of probation of at least one year but not more than five
4. \$100 special assessment per count (\$100)
5. Restitution

18 U.S.C. 1956(a)(2)(A) - Money Laundering

Maximum Penalties:

1. \$500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater
2. A term of imprisonment of 20 years.
3. A term of probation of at least one year but not more than five
4. \$100 special assessment per count (\$100)
5. Restitution
6. Forfeiture

PENALTY SHEET

Corporation: Newcon International Ltd.

18 U.S.C. § 1343 - Wire Fraud

Maximum Penalties:

1. \$250,000 or two times the loss or gain, whichever is greater
2. A term of probation of at least one year but not more than five
3. \$100 special assessment per count (\$200)
4. Restitution

18 U.S.C. § 371 - Conspiracy to Commit Wire Fraud

Maximum Penalties:

1. \$250,000 or two times the gain or loss, whichever is greater
2. A term of probation of at least one year but not more than five
3. \$100 special assessment per count (\$100)
4. Restitution

18 U.S.C. 1956(a)(2)(A) - Money Laundering

Maximum Penalties:

1. \$500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer, whichever is greater.
2. A term of probation of at least one year but not more than five.
3. \$100 special assessment per count
4. Restitution
5. Forfeiture

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED
 18 U.S.C. Section 1343 - Scheme by Wire;
 18 U.S.C. Section 371 - Conspiracy;
 18 U.S.C. Section 1956(a)(2)(A) - Money Laundering

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony
PENALTY:

See attached

 Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA
DEFENDANT - U.S.

Newcon International Ltd. aka Newcon Optik

DISTRICT COURT NUMBER

DEC - 4 2007

CR 07 0765 - PJH

 RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on

SHOW DOCKET NO.

☐ U.S. Att'y ☐ Defense

☐ this prosecution relates to a pending case involving this same defendant

MAGISTRATE CASE NO.

☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

 Name and Office of Person
 Furnishing Information on
 THIS FORM

 Jeane Hamilton
 Antitrust Division
 U.S. Dept. of Justice
 San Francisco Field Office

☐ U.S. Att'y ☒ Other U.S. Agency

 Name of Asst. U.S. Att'y
 (if assigned)
DEFENDANT**IS NOT IN CUSTODY**

- 1) ☐ Has not been arrested, pending outcome this proceeding.
 If not detained give date any prior summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction
- 6) ☐ Awaiting trial on other } ☐ Fed'l ☐ State

If answer to (6) is "Yes", show name of institution

 Has detainer
 been filed?

☐ Yes
☐ No

 If "Yes"
 give date
 filed

 DATE OF
 ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

 DATE TRANSFERRED
 TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☐ NO PROCESS* ☐ WARRANT Bail Amount:

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

 *Where defendant previously apprehended on complaint, no new summons
 or warrant needed, since Magistrate has scheduled arraignment

Date/Time:

Before Judge:

Comments:

JEANE HAMILTON (CA State Bar No. 157834)
NATHANAEL M. COUSINS (CA State Bar No. 177944)
DAVID J. WARD (CA State Bar No. 239504)
Antitrust Division
United States Department of Justice

FILED

DEC - 4 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

PJH

UNITED STATES OF AMERICA,

Plaintiff,

v.

MENDEL BEKER, a.k.a.
Mikhail Lvovich, a.k.a. Michael Beker,
ARIE PRILIK and
NEWCON INTERNATIONAL LTD.

Defendants.

No.

VIOLATIONS: 18 U.S.C. § 1343
- Wire Fraud; 18 U.S.C. § 371 -
Conspiracy; 18 U.S.C. § 1956(a) -
Money Laundering; 18 U.S.C.
§ 982(a)(1) - Forfeiture

SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

BACKGROUND

At all times relevant to this Indictment:

1. Night vision goggles are specially constructed binoculars that allow the user to see objects and surroundings in the dark without additional illumination. The quality of night vision goggles is graded by generations (known as "Gen"), and include Gen I and Gen II night vision goggles. Gen II goggles contain more sophisticated technology than Gen I goggles.

18

2. Defendant NEWCON INTERNATIONAL LTD. ("NEWCON"), also known as Newcon Optik, was a privately held company based in Toronto, Canada. NEWCON sells night vision goggles. Whenever in this Indictment reference is made to any act, deed, or transaction of NEWCON, the allegation means that NEWCON engaged in the act, deed, or transaction by or through its officers, directors, employees, agents, or other representatives while they were actively engaged in the management, direction, control, or transaction of NEWCON'S business or affairs.

3. Defendant MENDEL BEKER, a resident of Toronto, Canada, was president and chief executive of NEWCON.

4. Defendant ARIE PRILIK, a resident of Toronto, Canada, was a vice president at NEWCON and reported to BEKER.

5. On or about February 14, 2005, the U.S. Army's Tank-Automotive and Armaments Command ("TACOM"), the military unit tasked with equipping and training the Iraqi Army, awarded a contract valued at approximately \$250 million to International Trade Establishment ("ITE"), a civilian military supplier based in Amman, Jordan. Known as the Battalion Set II contract, the contract required ITE to supply the Iraqi Armed Forces with weapons, communications equipment and Gen II night vision goggles.

6. On or about March 12, 2005, ITE awarded the night vision goggles portion of the Battalion Set II contract to American Technologies Network, Inc. ("ATN"), a South San Francisco-based corporation.

COUNTS ONE AND TWO: (18 U.S.C. § 1343 - Wire Fraud)

7. Paragraphs 1 through 6 are realleged as if fully set forth here.

THE SCHEME TO DEFRAUD

8. Beginning in or about August 2005 and continuing until on or about February 7, 2006, both dates being approximate and inclusive, in the Northern District of California and elsewhere, the defendants:

MENDEL BEKER,
ARIE PRILIK and
NEWCON

1 did knowingly and intentionally devise and intended to devise, a scheme and artifice to
2 defraud TACOM as to a material matter, to obtain money and property by means of
3 materially false or misleading pretenses, representations, omissions, and promises, related
4 to TACOM's purchase of night vision goggles under the Battalion Set II contract.

5 9. After failing to disrupt ATN's contract to supply night vision goggles under
6 the Battalion Set II contract, BEKER, PRILIK, and NEWCON devised a scheme to
7 unlawfully enrich themselves by paying ATN to stop supplying night vision goggles under
8 the Battalion Set II contract using false or misleading pretenses, at which point NEWCON
9 would supply the night vision goggles at inflated prices.

10 10. It was part of the scheme and artifice to defraud that BEKER, PRILIK and
11 NEWCON participated in or did the following, among other things:

- 12 a. BEKER contacted an ATN representative and offered to pay ATN to stop
13 supplying night vision goggles under the Battalion Set II contract;
- 14 b. BEKER instructed the ATN representative to create an invoice billing
15 NEWCON \$50,000 and to falsely describe the \$50,000 as a "loan," thereby
16 concealing the true purpose of the \$50,000 -- as an initial payment to
17 induce ATN to stop supplying night vision goggles under the Battalion Set
18 II contract;
- 19 c. BEKER caused \$50,000 to be transferred via wire from a bank account
20 controlled by NEWCON to a bank account controlled by ATN for the
21 purpose of paying ATN to stop supplying night vision goggles under the
22 Battalion Set II contract;
- 23 d. PRILIK told a TACOM contracting official that ATN could no longer
24 supply night vision goggles due to production, export and quality problems.
25 PRILIK's statements included false or misleading pretenses. PRILIK then
26 informed the TACOM official that NEWCON could supply the night vision
27 goggles, but at a substantially higher price.

THE USE OF THE WIRES

11. On or about the dates listed below, in the Northern District of California and elsewhere, for the purpose of executing the aforementioned scheme and artifice to defraud, and attempting to do so, defendants:

MENDEL BEKER,
ARIE PRILIK and
NEWCON

knowingly transmitted and caused to be transmitted, in interstate and foreign commerce, wire communications as set forth below:

<u>Count</u>	<u>Date</u>	<u>Route of Wire</u>	<u>Description</u>
ONE	Sept. 7, 2005	Toronto, Canada to San Mateo, California	\$50,000 wire transfer from Bank of Nova Scotia (Acct#: held by Newcon Optik) to Union Bank of California (Acct#: held by American Technologies Network Corp.)
TWO	Sept. 20, 2005	Toronto, Canada to South San Francisco, California	Telephone call from PRILIK to ATN Representative

All in violation of Title 18, United States Code, Section 1343.

COUNT THREE: 18 U.S.C. § 371 (Conspiracy to Commit Wire Fraud)

12. Paragraphs 1 through 6 and paragraphs 8 through 11 are realleged as if fully set forth here.

13. Beginning in or about August 2005 and continuing until on or about February 7, 2006, both dates being approximate and inclusive, in the Northern District of California and elsewhere, the defendants:

MENDEL BEKER,
ARIE PRILIK and
NEWCON

did knowingly and intentionally conspire and agree to commit wire fraud, in violation of Title 18, United States Code, Section 371.

//

OVERT ACTS

14. As part of the conspiracy, and to carry out its objectives, BEKER and PRILIK, as agents of NEWCON and while they were actively engaged in the management, direction, control or transaction of NEWCON's business affairs, committed or caused to be committed the following overt acts, among others, in the Northern District of California and elsewhere:

- a. On or about August 26, 2005, PRILIK spoke by telephone to an ATN representative, proposing that ATN and NEWCON coordinate the price at which they would offer to sell night vision goggles under the TACOM contract. PRILIK described this as "an illegal antitrust."
- b. On or about September 1, 2005, BEKER spoke by telephone to an ATN representative and proposed to compensate ATN in return for ATN's agreement to stop supplying night vision goggles under the Battalion Set II contract.
- c. On or about September 7, 2005, BEKER ordered the wire transfer of \$50,000 from a bank account controlled by NEWCON at the Bank of Nova Scotia to a bank account controlled by ATN at the Union Bank of California, the first installment in NEWCON's payments to ATN in return for ATN's agreement to stop supplying night vision goggles under the Battalion Set II contract.
- d. On or about September 20, 2005, PRILIK spoke by telephone to an ATN representative and, among other things, pressed him to sign an agreement containing the false or misleading pretenses under which ATN would stop supplying night vision goggles under the Battalion Set II contract.

All in violation of Title 18, United States Code, Section 371.

COUNT FOUR: (18 U.S.C. 1956(a) - Money Laundering)

15. Paragraphs 1 through 6 and 8 through 11, are realleged as if fully set forth here.

1 16. On or about September 7, 2005, within the Northern District of California
2 and elsewhere, the defendants:

3 MENDEL BEKER and
4 NEWCON

5 did transport, transmit or transfer, or cause to be transported, transmitted or transferred, or
6 did attempt to transport, transmit or transfer, a monetary instrument or funds from a place
7 outside the United States to a place in the United States, with the intent to promote the
8 carrying on of specified unlawful activity, namely Wire Fraud as alleged in Counts One
9 and Two herein, by transferring \$50,000 from a bank account controlled by NEWCON at
10 the Bank of Nova Scotia in Toronto, Canada, to a bank account controlled by ATN at the
11 Union Bank of California in the Northern District of California, in violation of Title 18,
12 United States Code, Section 1956(a)(2)(A).

13 FORFEITURE ALLEGATION: (18 U.S.C. § 982(a)(1))

14 17. Paragraphs 1 through 6, 8 through 11, and paragraph 16 are hereby re-
15 alleged as if fully set forth here, for the purpose of alleging forfeiture pursuant to the
16 provisions of Title 18, United States Code, Section 982(a)(1).

17 18. Upon conviction of the offense alleged in Count Four of this Indictment, the
18 defendants:

19 MENDEL BEKER and
20 NEWCON

21 shall forfeit to the United States pursuant to Title 18, United States Code, Section
22 982(a)(1), all right, title and interest in property, real or personal, involved in said
23 violation, or any property traceable to such property, including but not limited to:

- 24 a. all property used in any manner to commit or facilitate the
25 commission of said offenses, including but not limited to \$50,000
26 transferred from a NEWCON bank account at the Bank of Nova
27 Scotia to an ATN bank account at the Union Bank of California.

28 //

b. a sum of money equal to the total amount of money involved in the commission of said offenses.

19. If, as a result of any act or omission of the defendants, any of said property

a. cannot be located upon the exercise of due diligence,

b. has been transferred or sold to or deposited with a third person,

c. has been placed beyond the jurisdiction of the Court,

d. has been substantially diminished in value, or

e. has been commingled with other property that cannot be divided without difficulty,

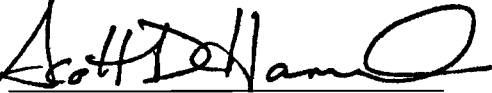
any and all interest the defendants have in any other property, up to the value of the property described in paragraph 18 above, shall be forfeited to the United States pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

DATED:

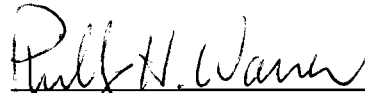
A TRUE BILL



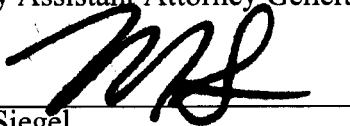
Thomas O. Barnett
Assistant Attorney General


FOREPERSON

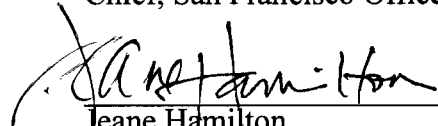
Scott D. Hammond
Deputy Assistant Attorney General



Phillip H. Warren
Chief, San Francisco Office



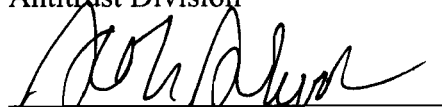
Marc Siegel
Director of Criminal Enforcement



Jeane Hamilton
Nathanael M. Cousins
David J. Ward
Attorneys

United States Department of Justice
Antitrust Division

U.S. Department of Justice
Antitrust Division
450 Golden Gate Ave.
Box 36046, Room 10-0101
San Francisco, CA 94102
(415) 436-6660



Scott N. Schools
United States Attorney
Northern District of California